

## Message Text

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ACTION AF-06

INFO OCT-01 ISO-00 OPIC-03 EB-07 TRSE-00 L-03 PRS-01 FS-01

/022 W

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R 270753Z FEB 76

FM AMEMBASSY ABIDJAN

TO SECSTATE WASHDC 7277

INFO AMEMBASSY ADDIS ABABA

AMEMBASSY BAMAKO

AMEMBASSY LIBREVILLE

AMEMBASSY LOME

AMEMBASSY NAIROBI

AMEMBASSY OUAGADOUGOU

AMEMBASSY YAOUNDE

C O N F I D E N T I A L ABIDJAN 1926

FOR DUNCAN AF/EPS

E.O. 11652: GDS

TAGS: CFED, EINV, OPIC, IV, XA

SUBJECT: TAW TRANSFERS

REF: (A) NAIROBI 1206, (B) STATE 39146,

(C) STATE 32314, (D) ABIDJAN 1102, (E) 75 ABIDJAN 4301

SUMMARY. EMBASSY ASKED BY OPIC TO: (1) DETERMINE STATUS OF LOCAL BLOCKED TAW ACCOUNT; (2) CONFIRM LEGALITY OF PRIOR AND FUTURE TRANSFERS, AND (3) ACCEPT FINAL TRANSFERS OF MONIES IN SUBJECT ACCOUNTS TO USDO ACCOUNT. AS A RESULT OF INFORMAL INQUIRIES IT APPEARS ACCOUNT IN IVORY COAST IMPROPERLY SET UP BY CREDITORS' REPRESENTATIVE, AND AS IT IS RESIDENT ACCOUNT, IVORIAN LAW PROHIBITS TRANSFERS FROM THIS ACCOUNT TO NON-RESIDENT ACCOUNT UNLESS TRANSFERS APPROVED IN ADVANCE BY CURRENCY CONTROL BOARD OF THE CENTRAL BANK (BCEAO). SUCH APPROVAL NEVER SOUGHT OR RECEIVED. NEVERTHELESS, TAW-IVORY COAST DID MAKE SOME TRANSFERS TO USDO ACCOUNT THROUGH EMBASSY. TO GO  
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BACK NOW TO SEEK APPROVAL OF PRIOR AND FUTURE TRANSFERS

COULD RAISE PROBLEMS FOR EMBASSY AS WELL AS BIAO, THE TRANSFERRING BANK AND WOULD, IN ANY EVENT, REQUIRE DISCUSSION WITH DIRECTOR OF BCEAO WHICH COULD LEAD TO ADVERSE ATTITUDE AND PUBLICITY DETRIMENTAL TO USG INTERESTS AND FUTURE OPIC PROJECTS IN IVORY COAST. THIS WOULD ALSO PUBLICIZE TAW'S FINANCIAL PROBLEMS AND RAISE QUESTIONS AS TO WHY IVORIAN CREDITORS HAD NOT ALSO BEEN PAID. EMBASSY PROPOSES THAT OPIC ESTABLISH NEW ACCOUNT IN IVORY COAST TO WHICH FUTURE TRANSFERS COULD BE LEGALLY MADE. END SUMMARY.

1. AS EXPLAINED REF (D), BIAO ACCOUNT IS NOT RPT NOT CONSIDERED BLOCKED ACCOUNT BY SUBJECT BANK. OPIC TREASURER MULLER AND CREDITOR REP CAVANAUGH ARE NO RPT NO LONGER SIGNATORIES ON ACCOUNT. SUBSEQUENT INFORMAL INQUIRIES HAVE SUGGESTED TAW IVORY COAST VIEWS ACCOUNT AS BLOCKED DUE TO RECENT US COURT INJUNCTION OBTAINED BY CREDITORS AGAINST TAW USE OF LOCAL CURRENCIES IN BLOCKED ACCOUNTS. BIAO OFFICIALS HAVE STATED HOWEVER THAT TAW, IN THEIR VIEW, IS LEGALLY ENTITLED TO MAKE WITHDRAWALS FROM THIS ACCOUNT AS NORMAL CUSTOMER. EMBASSY REQUESTED OPIC ADVICE ACTION TO BE TAKEN PURSUANT THIS SITUATION REF (D) BUT RECEIVED NO RESPONSE. OPIC SHOULD BE AWARE THAT UNDER IVORIAN LAW THEY HAVE NO CLAIM ON MONIES IN SUBJECT ACCOUNT AND DISPOSITION OF SUCH IS ENTIRELY AT THE DISCRETION OF TAW IVORY COAST. BIAO HAS INDICATED HOWEVER THAT NO TRANSACTIONS HAVE BEEN REGISTERED ON THIS ACCOUNT SINCE OCTOBER 1975. FYI: BOTH TAW IVORY COAST AND BIAO HAVE INDICATED IN SEPARATE INFORMAL CONVERSATIONS THAT ACCOUNT PROBLEMS RESULT FROM CAVANUAGH'S OPENING THE ACCOUNT IMPROPERLY. END FYI.

2. GIVEN SITUATION WITH LOCAL BANK ACCOUNT EMBASSY QUESTIONS WISDOM RAISING ISSUE OF PRIOR TRANSFERS WITH EITHER CENTRAL BANK OR MINISTRY OF FINANCE OFFICIALS. IVORIAN LAW PROHIBITS TRANSFERS FROM RESIDENT TO NON-RESIDENT ACCOUNTS UNLESS SUCH TRANSFERS APPROVED BY CURRENCY CONTROL BOARD OF CENTRAL BANK. IN THIS CASE, NO CURRENCY CONTROL BOARD APPROVAL WAS RECEIVED FOR ANY TAW-EMBASSY TRANSFERS SOME OF WHICH WERE MADE IN CASH. CONFIDENTIAL

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SINCE ACTUAL TRANSFER OF DOLLARS BETWEEN EMBASSY AND OPIC STRICTLY ON AN ACCOUNTING NATURE, PERHAPS ARGUMENT MIGHT BE MADE THAT GOIC INCURRED NO ACTUAL FOREIGN EXCHANGE LOSS AS CFA USED TO MEET LOCAL USG EXPENSES. NEVERTHELESS, THE LAW ESTABLISHES A PROCEDURE FOR TRANSFERS AND IT WAS CIRCUMVENTED. THIS COULD RAISE PROBLEMS FOR BOTH THE US EMBASSY AND BIAO, THE TRANSFERRING BANK. THE LIABILITY OF EITHER TAW OR OPIC UNDER IVORIAN LAW IS NOT CLEAR.

FURTHERMORE, LOCAL INCORPORATION STATUS OF TAW AS FINANCIAL INSITUATION ALSO MAY COMPLICATE ISSUE.

3. GIVEN ABOVE CIRCUMSTANCES IF EMBASSY RAISES ISSUE, ANY GOIC DECISION WOULD REQUIRE HIGH LEVEL DISCUSSION INVOLVING BCEAO DIRECTOR, US AMBASSADOR, BIAO DIRECTOR AND TAW IVORY COAST. WITH PARTICIPATION OF LATTER, SITUATION COULD DISSOLVE INTO ADVERSARY RELATIONSHIP AND MUCH NEGATIVE PUBLICITY COULD RESULT TO DETRIMENT OF USG INTERESTS AND FUTURE OPIC PROJECTS IN IVORY COAST. ADDITIONALLY, THIS WOULD HIGHLIGHT TAW'S FINANCIAL PROBLEMS PUBLICLY IN DIRECT CONTRADICTION WITH OPIC AND CREDITORS' STATED INTENT. IT IS HIGHLY IMPORBABLE THAT ANY EMBASSY DEMARCHE TO THE CENTRAL BANK WILL RESULT IN A FORMAL STATEMENT OF IVORIAN POLICY WITHIN ANY REASONABLE LENGTH OF TIME. IT IS ALSO UNCLEAR WHETHER LEGALLY BINDING DECISION COULD BE TAKEN LOCALLY OR WOULD REQUIRE FORMAL BCEAO HEADQUARTERS INVOLVEMENT. GIVEN PRECEDENT SETTING NATURE OF DECISION BELIEVE BCEAO WOULD HAVE PROBLEMS WITH APPROVING SUCH TRANSFERS. EMBASSY DOES NOT BELIEVE IGA NECESSARILY APPLICABLE IN THIS CASE AS CFA IS CONVERTIBLE CURRENCY AND NO EXPROPRIATION OF ASSETS HAS OCCURRED. THIS ISSUE AND OTHER PURSUANT IGA WERE RAISED IN REF (A) ANE EMBASSY JOINS NAIROBI IN ASKING FOR CLEAR LEGAL JUSTIFICATION OF SUCH APPLICATION OF OPIC BILATERAL AGREEMENT.

4. INFORMAL DISCUSSIONS OF MATTER MAY ALSO SERVE TO EXACERBATE ISSUE AS TAW DEBTOR TO THREE LOCAL BANKS. IF ISSUE REACHES CENTRAL BANK, THESE BANKS WHO ARE ALREADY SOMEWHAT AWARE OF FINANCIAL COMPLICATIONS OF TAW INTERNATIONAL LEASING MAY PROTEST TRANSFERS MADE IN ABOVE MANNER SUGGESTING THAT THERE WAS CLEAR INTENT TO AVOID PAYMENT OF LOCAL DEBT OR THAT LOCAL DEBTS WERE SUBORDINATED TO INTERESTS OF OPIC  
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AND CREDITORS. EMBASSY ARISED THIS PROBLEM WITH OPIC REF (D) AND POINTED OUT THAT CURRENCY CONTROL BOARD APPROVAL OF TRANSFERS MAY HAVE BEEN WITHHELD PENDING SETTLEMENT OF LOCAL DEBTS. OPIC NEVER RESPONDED TO THIS COMPLICATION AND CAVANAUGH CLEARLY CHOSE TO IGNORE RIGHTS OF LOCAL CREDITORS.

5. TO ACCOMPLISH GOALS OF OPIC AND CREDITORS OUTLINED REF (C), EMBASSY OPIC MUST TAKE STEPS TO RE-ESTABLISH LOCAL ACCOUNT. EMBASSY FRUTHER BELIEVES TRANSFERS SHOULD BE ACCOMPLISHED TO EXTENT POSSIBLE UNDER EXISTING CENTRAL BANK PROCEDURES. SHOULD OPIC, GIVEN ABOVE CONSIDERATIONS, STILL WISH TO RAISE THESE QUESTIONS WITH GOIC AND BCEAO, EMBASSY WOULD LIKE FURTHER LEGAL JUSTIFICATION FOR DOING SO AND BELIEVES OPIC OR CREDITOR REPRESENTATIVE SHOULD BE PRESENT AT SUCH DISCUSSIONS.

6. COMMENT: AMBASSADOR ISSERIOUSLY CONCERNED THAT  
SOLUTION PROPOSED BY OPIC WOULD COMPOUND ALREADY DUBIOUS  
SITUATION THAT HAS DEVELOPED HERE AND BELIEVES FRESH START  
WOULD BETTER SERVE OPIC AND USG INTERESTS.  
SMITH

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## Message Attributes

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